

(4) **TURKEY.**—The President is authorized to transfer to the “Oliver Hazard Perry” class guided missile frigates Estocin (FFG 15) and Samuel Eliot Morrison (FFG 13). Each such transfer shall be on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761). The President is further authorized to transfer to the Government of Turkey the “Knox” class frigates Capadanno (FF 1093), Thomas C. Hart (FF 1092), Donald B. Beary (FF 1085), McCandless (FF 1084), Reasoner (FF 1063), and Bowen (FF 1079). The transfer of these 6 “Knox” class frigates shall be on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(b) **GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.**—The value of a vessel transferred to another country on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) pursuant to authority provided by subsection (a) shall not be counted for the purposes of subsection (g) of that section in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.

(c) **COSTS OF TRANSFERS.**—Notwithstanding section 516(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)(1)), any expense incurred by the United States in connection with a transfer authorized to be made on a grant basis under subsection (a) shall be charged to the recipient.

(d) **REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.**—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a United States Navy shipyard or other shipyard located in the United States.

(e) **EXPIRATION OF AUTHORITY.**—The authority provided under subsection (a) shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

Subtitle D—Miscellaneous Provisions

SEC. 861. ANNUAL FOREIGN MILITARY TRAINING REPORTS.

Section 656(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2416) is amended—

(1) by striking “Not later than January 31 of each year,” and inserting “Upon written request by the chairman or ranking member of the Committee on International Relations of the House of Representatives or the Committee on Foreign Relations of the Senate,”; and

(2) by inserting “of a country specified in the request” after “personnel”.

SEC. 862. REPORT RELATING TO INTERNATIONAL ARMS SALES CODE OF CONDUCT.

Section 1262(c) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted by section 1000(a)(7) of Public Law 106–113; 113 Stat 1501A–508) is amended—

(1) in paragraph (1)—

(A) by striking “commencement of the negotiations under subsection (a),” and inserting “date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 2002 and 2003,”; and

(B) by striking “during these negotiations.” and inserting “to begin negotiations and any progress made to conclude an agreement during negotiations.”; and

(2) in paragraph (2), by striking “subsection (a)” and inserting “subsection (b)”.

The CHAIRMAN. No amendment to that amendment is in order except those printed in House Report 107–62. Except as specified in section 2 of House Resolution 138, each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be consid-

ered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

The Chairman of the Committee of the Whole may recognize for consideration any amendment printed in the report out of the order printed, but not sooner than 1 hour after the majority leader or his designee announces from the floor a request to that effect.

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AMENDMENT NO. 1 OFFERED BY MR. DELAY

Mr. DELAY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. DELAY:
Page 90, after line 8, add the following:

Subtitle B—American Servicemembers’ Protection Act

SEC. 631. SHORT TITLE.

This subtitle may be cited as the “American Servicemembers’ Protection Act of 2001”.

SEC. 632. FINDINGS.

Congress makes the following findings:

(1) On July 17, 1998, the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, meeting in Rome, Italy, adopted the “Rome Statute of the International Criminal Court.” The vote on whether to proceed with the Statute was 120 in favor to 7 against, with 21 countries abstaining. The United States voted against final adoption of the Rome Statute.

(2) As of April 30, 2001, 139 countries had signed the Rome Statute and 30 had ratified it. Pursuant to Article 126 of the Rome Statute, the Statute will enter into force on the first day of the month after the 60th day following the date on which the 60th country deposits an instrument ratifying the Statute.

(3) Since adoption of the Rome Statute, a Preparatory Commission for the International Criminal Court has met regularly to draft documents to implement the Rome Statute, including Rules of Procedure and Evidence, Elements of Crimes, and a definition of the Crime of Aggression.

(4) During testimony before the Congress following the adoption of the Rome Statute, the lead United States negotiator, Ambassador David Scheffer stated that the United States could not sign the Rome Statute because certain critical negotiating objectives of the United States had not been achieved. As a result, he stated: “We are left with consequences that do not serve the cause of international justice.”

(5) Ambassador Scheffer went on to tell the Congress that: “Multinational peacekeeping forces operating in a country that has joined the treaty can be exposed to the Court’s jurisdiction even if the country of the individual peacekeeper has not joined the treaty. Thus, the treaty purports to establish an arrangement whereby United States armed forces operating overseas could be conceivably prosecuted by the international court even if the United States has not agreed to be bound by the treaty. Not only is this contrary to the most fundamental principles of treaty law, it could inhibit the ability of the United States to use its military to meet alliance obligations and participate in multi-

national operations, including humanitarian interventions to save civilian lives. Other contributors to peacekeeping operations will be similarly exposed.”

(6) Notwithstanding these concerns, President Clinton directed that the United States sign the Rome Statute on December 31, 2000. In a statement issued that day, he stated that in view of the unremedied deficiencies of the Rome Statute, “I will not, and do not recommend that my successor submit the Treaty to the Senate for advice and consent until our fundamental concerns are satisfied”.

(7) Any American prosecuted by the International Criminal Court will, under the Rome Statute, be denied procedural protections to which all Americans are entitled under the Bill of Rights to the United States Constitution, such as the right to trial by jury.

(8) Members of the Armed Forces of the United States deserve the full protection of the United States Constitution wherever they are stationed or deployed around the world to protect the vital national interests of the United States. The United States Government has an obligation to protect the members of its Armed Forces, to the maximum extent possible, against criminal prosecutions carried out by United Nations officials under procedures that deny them their constitutional rights.

(9) In addition to exposing members of the Armed Forces of the United States to the risk of international criminal prosecution, the Rome Statute creates a risk that the President and other senior elected and appointed officials of the United States Government may be prosecuted by the International Criminal Court. Particularly if the Preparatory Commission agrees on a definition of the Crime of Aggression over United States objections, senior United States officials may be at risk of criminal prosecution for national security decisions involving such matters as responding to acts of terrorism, preventing the proliferation of weapons of mass destruction, and deterring aggression. No less than members of the Armed Forces of the United States, senior officials of the United States Government deserve the full protection of the United States Constitution with respect to official actions taken by them to protect the national interests of the United States.

SEC. 633. WAIVER AND TERMINATION OF PROHIBITIONS OF THIS ACT.

(a) **AUTHORITY TO INITIALLY WAIVE SECTIONS 635 AND 637.**—The President is authorized to waive the prohibitions and requirements of sections 635 and 637 for a single period of one year. Such a waiver may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that the International Criminal Court has entered into a binding agreement that—

(A) prohibits the International Criminal Court from seeking to exercise jurisdiction over the following persons with respect to actions undertaken by them in an official capacity:

(i) covered United States persons;

(ii) covered allied persons; and

(iii) individuals who were covered United States persons or covered allied persons; and

(B) ensures that no person described in subparagraph (A) will be arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court.